

COUNCIL DOCKET OF _____

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

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Proposed Ban of Novelty Lighters

Reviewed Initiated By PS&NS On 9/12/07 Item No. 1

RECOMMENDATION TO:

Support the Mayor's proposal to introduce an ordinance banning the sale and distribution of novelty lighters, and direct the City Attorney to draft an ordinance for deliberation by the full Council.

VOTED YEA: Maienschein, Faulconer, Young, Hueso

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

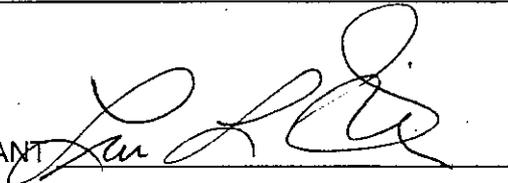
REPORT TO THE CITY COUNCIL NO. 07-139

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Fire Department's September 12, 2007, PowerPoint

COUNCIL COMMITTEE CONSULTANT





000515

PS&NS SEP 12 2007 #1

THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: Sept. 5, 2007

REPORT NO: 07-139

ATTENTION: Public Safety and Neighborhood Services Committee
Agenda of September 12, 2007

SUBJECT: Prohibition of Sale and Distribution of Novelty Lighters

REFERENCE: N/A

SUMMARY

Children often mistake novelty lighters for toys due to the toy-like appearance and features of these lighters. As a result, children playing with novelty lighters inadvertently start fires that cause injury, death and property destruction. Despite lighter safety standards passed at the federal level, fires caused by children playing with novelty lighters continue to occur. To address this public safety concern, local government agencies across the nation have adopted ordinances that prohibit the sale and distribution of novelty lighters in their communities.

RECOMMENDATIONS

1. Support the Mayor's proposal to introduce an ordinance banning the sale and distribution of novelty lighters and;
2. Direct the City Attorney to draft an ordinance for deliberation by the full council.

BACKGROUND

The U.S. Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency whose primary mission is to ensure that consumer products are safe to use and will not cause injuries or death.

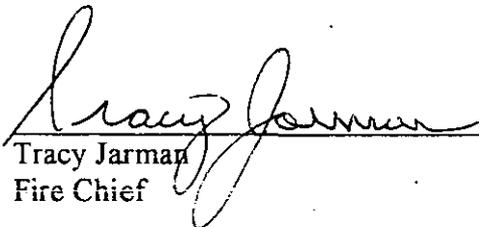
Under the 1994 Child Safety Protection Act, the CPSC has the authority to mandate safety standards and recall products that are considered dangerous. For example, to reduce deaths and injuries associated with children under age five who obtain and play with cigarette lighters, a mandatory safety standard was established requiring disposable and novelty lighters to be "child-resistant", meaning 85% of the children in a controlled test group must not be able to operate the lighters. As a result, thousands of dangerous lighters have been recalled to date.

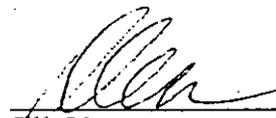
Unfortunately, there has been a significant proliferation of novelty lighters that attract and fascinate children. Some of these lighters meet CPSC standards. While the child-resistant cigarette lighter standard has been highly effective, children cannot discriminate a toy from a fire tool that looks like a toy. These lighters mimic everyday toys found in the home, encouraging children to play with these dangerous lighters. Many of these lighters have flashing lights and make sounds, which make the lighters more attractive to children. Juvenile fire setting has been identified as the fastest growing fire threat in the United States and annual statistics show that more than 300 people are killed and nearly one-billion dollars in property is destroyed by fires set by children. Over 30% of the victims from these fires are the children themselves. Accidents caused by lighters are the 2nd leading cause of death in children 14 years of age and under.

These lighters pose a serious risk and represent a major threat to public safety. Placed in the hands of children, it is a recipe for disaster. Therefore, the Mayor has directed the Fire-Rescue Department to work with the City Attorney's Office to develop an ordinance that would control the sale of novelty lighters to ensure children are not placed in harms way.

RECOMMENDATION

Support the Mayor's proposal to introduce an ordinance banning the sale and distribution of novelty lighters and direct the City Attorney to draft an ordinance for deliberation by the full council.


Tracy Jarman
Fire Chief


Jill Olen
Deputy Chief Operating Officer
Public Safety/Homeland Security

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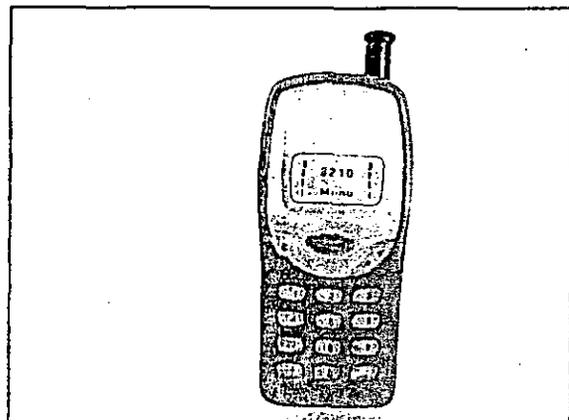
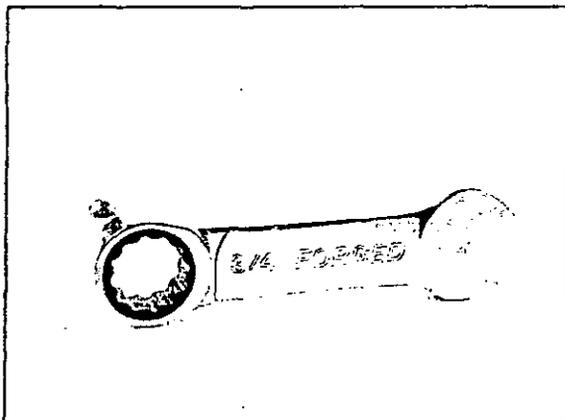
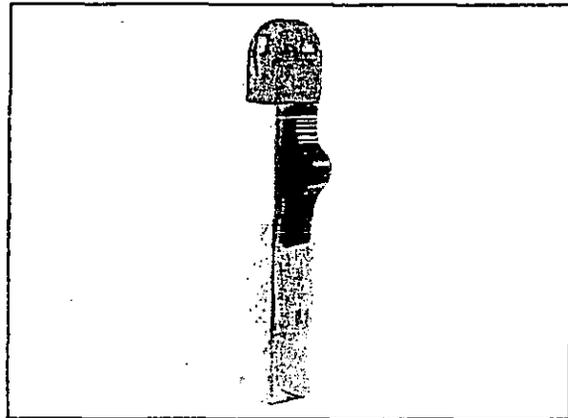
**Novelty Lighters
Call to Action**

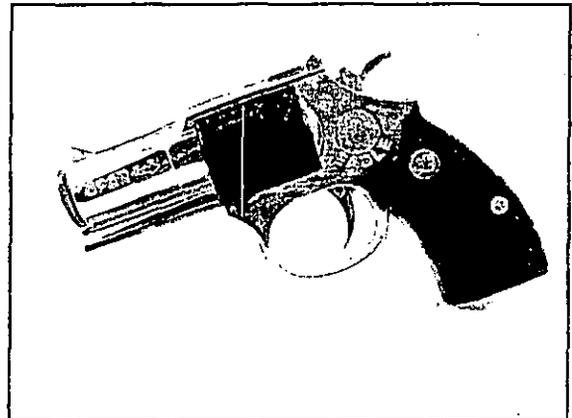
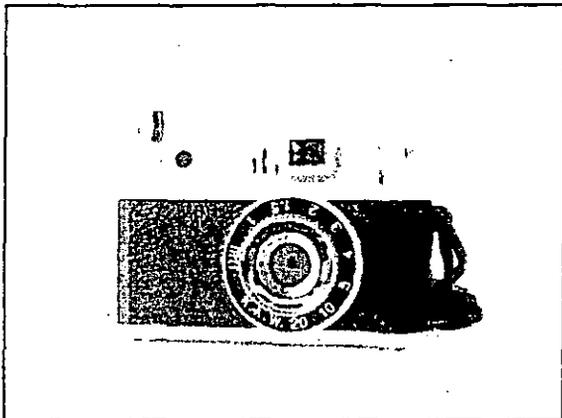
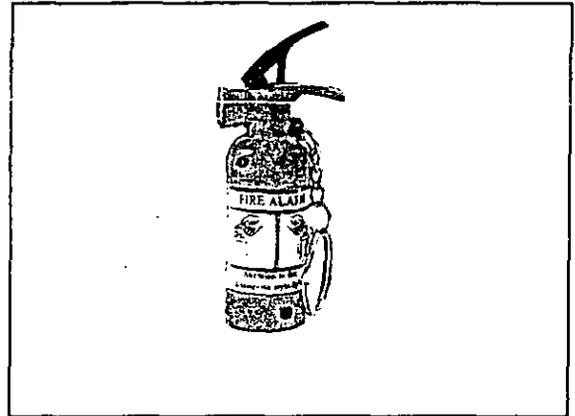
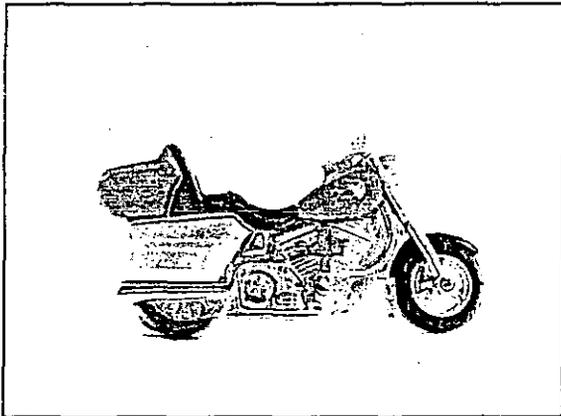
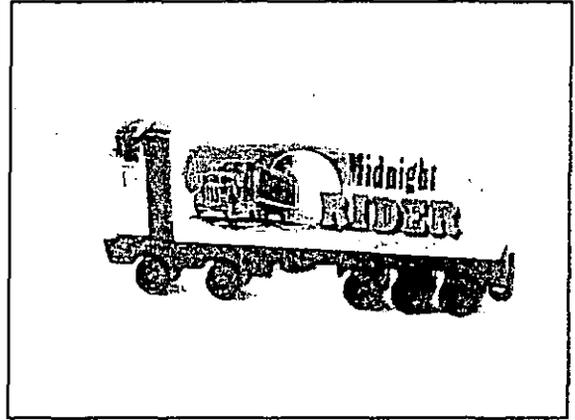
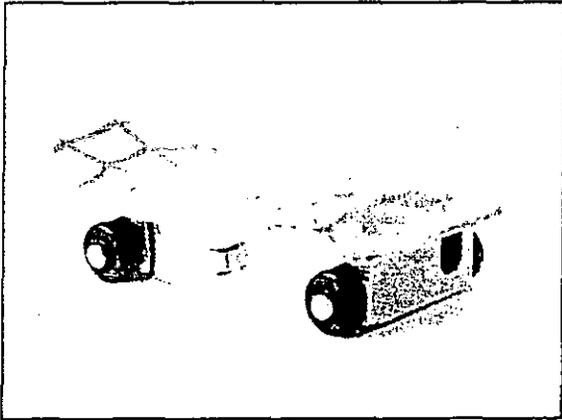
Danger Disguised As Toys

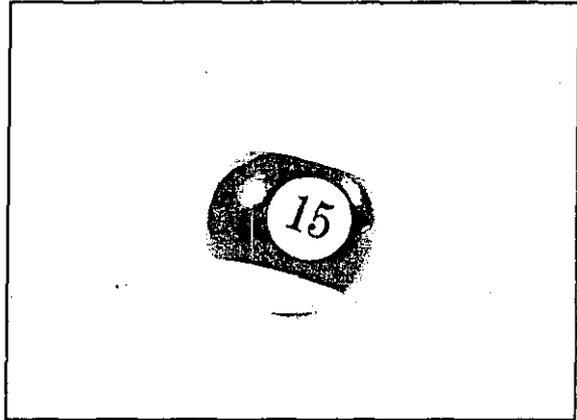
- Juvenile fire setting
 - 300 + people killed
 - 30% are children
 - \$1 billion in property damage
- Accidents caused by lighters
 - 2nd leading cause of death in children 14 and under

What is a Novelty Lighter?

- Lighters that depict or resemble articles commonly recognized as appealing to or intended for use by children under 5
 - Cartoon characters
 - Toys
 - Guns
 - Musical instruments
 - Vehicles
 - Animals
 - Food or beverages
 - Visual effects, sounds, musical notes







City of San Diego

What has Been Done?

- CPSC adopts child-resistant lighter rule - 1994
 - Disposable and novelty lighters
 - Reduce injuries and deaths
- Lighter rule requires
 - 85% of children must be unable to make it work
 - Users must be unable to override child-resistive mechanism
 - Mechanism must not impair safe operation
 - Mechanism must work for life of lighter
 - Mechanism must reset automatically

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City of San Diego

What Needs to be Done

- Prohibition of sale and distribution
 - Pass ordinance to control sale
 - Develop community-based outreach
 - Support national campaign
 - USFA
 - State Fire Marshals
 - Burn Centers
 - San Diego County Fire Chiefs
 - San Diego Burn Institute

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City of San Diego

Questions

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REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER 55
(FOR AUDITOR'S USE ONLY) 04/15

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT): San Diego Fire-Rescue, Fire Prevention Bureau

3. DATE: 1/8/2008

4. SUBJECT: Amending the San Diego Municipal Code to Prohibit the Sale and Distribution of Novelty Lighters

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)
Monica Orton, Fire Marshal x34304 MS 603

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)
Frankie Murphy, Asst Fire Marshal x34406 MS 603

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	N/A			
DEPT.	N/A			
ORGANIZATION	N/A			
OBJECT ACCOUNT	N/A			
JOB ORDER	N/A			
C.I.P. NUMBER	N/A			
AMOUNT	N/A			

9. ADDITIONAL INFORMATION / ESTIMATED COST:
Fiscal Impact: None

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	TRACY JARMAN	1/8/08	8	COO	JAY GOLDSTONE	2/15/08
2	EOPC		1/18/08	9	CITY ATTORNEY	WILLIAM GERSTEN	2/20/08
3	EAS	Allison Shelwood	1-28-08	10	ORIGINATING DEPARTMENT	TRACY JARMAN	3/14/08
4	LIAISON OFFICE	ED PLANK	2-6-08				
5	FINANCIAL MGMT	William Vu	2-12-08		DOCKET COORD:	COUNCIL LIAISON: SC	3/19/08
6	CITY AUDITOR	Christopher Russell	2-13-08		COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	
7	DEPUTY CHIEF	JILL OLEN	2-14-08		<input type="checkbox"/> REFER TO:	COUNCIL DATE: 4/1/08	

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

Amending the San Diego Municipal Code to prohibit the sale and distribution of Novelty Lighters.

11A. STAFF RECOMMENDATIONS:
Adopt the Ordinance.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: THIS ACTIVITY IS NOT A "PROJECT" AND THEREFORE EXEMPT FROM CEQA PURSUANT TO THE STATE GUIDELINES SECTION 15060 (C) (3).

HOUSING IMPACT: NONE

OTHER ISSUES: NONE

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EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: _____ REPORT NO: _____
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: San Diego Fire-Rescue Department, Fire Prevention Bureau
SUBJECT: Prohibition of Sale and Distribution of Novelty Lighters
COUNCIL DISTRICT(S): City-wide
CONTACT/PHONE NUMBER: Monica Orton, Deputy Chief, Fire Prevention Bureau

REQUESTED ACTION: Amend the San Diego Municipal Code to prohibit the sale and distribution of novelty lighters.

STAFF RECOMMENDATION: Support the Mayor's proposal to introduce an ordinance prohibiting the sale and distribution of novelty lighters.

EXECUTIVE SUMMARY: The U.S. Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency whose primary mission is to ensure that consumer products are safe to use and will not cause injuries or death.

Under the 1994 Child Safety Protection Act, the CPSC has the authority to mandate safety standards and recall products that are considered dangerous. For example, to reduce deaths and injuries associated with children under age five who obtain and play with cigarette lighters, a mandatory safety standard was established requiring disposable and novelty lighters to be "child-resistant", meaning 85% of the children in a controlled test group must not be able to operate the lighters. As a result, thousands of dangerous lighters have been recalled to date.

Unfortunately, there has been a significant proliferation of novelty lighters that attract and fascinate children. Some of these lighters meet CPSC standards. While the child-resistant cigarette lighter standard has been highly effective, children cannot discriminate a toy from a fire tool that looks like a toy. These lighters mimic everyday toys found in the home, encouraging children to play with these dangerous lighters. Many of these lighters have flashing lights and make sounds, which make the lighters more attractive to children. Juvenile fire setting has been identified as the fastest growing fire threat in the United States and annual statistics show that more than 300 people are killed and nearly one-billion dollars in property is destroyed by fires set by children. Over 30% of the victims from these fires are the children themselves. Accidents caused by lighters are the 2nd leading cause of death in children 14 years of age and under.

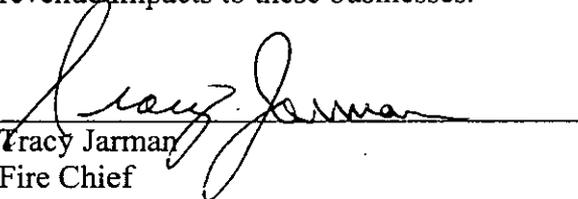
These lighters pose a serious risk and represent a major threat to public safety. Placed in the hands of children, it is a recipe for disaster. Therefore, the Mayor had directed the Fire-Rescue Department to work with the City Attorney's Office to develop an ordinance that would control the sale of novelty lighters to ensure children are not placed in harms way.

FISCAL CONSIDERATIONS: None to the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Reviewed by the PS&NS Committee on September 12, 2007. Recommendation to prepare ordinance and forward to full council for consideration. Vote was unanimous.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: The San Diego Fire-Rescue Department has joined with United States Fire Administration, State Fire Marshals, burn centers, San Diego County Fire Chiefs and the San Diego Burn Institute in a national campaign to support this effort.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Target stakeholders include all citizens of San Diego, with particular emphasis on children. It is anticipated that the adoption of this ordinance will increase public safety by reducing injuries and loss of life and property. Additional stakeholders are businesses involved in the sale and manufacture of these lighters. It is our opinion the safety benefits resulting from this ordinance far outweigh any potential revenue impacts to these businesses.



Tracy Jarman
Fire Chief



Jill Olen
Deputy Chief Operating Officer
Public Safety/Homeland Security

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE SAN DIEGO CITY COUNCIL
AMENDING THE SAN DIEGO MUNICIPAL CODE BY
AMENDING CHAPTER 5, ARTICLE 4, BY ADDING
THERE TO DIVISION 9, SECTIONS 54.0901, 54.0902, 54.0903,
54.0904, 54.0905, AND 54.0906 ALL RELATED TO
PROHIBITING THE RETAIL SALE, RETAIL GIFT, OR
RETAIL DISTRIBUTION OF NOVELTY LIGHTERS.

The purpose of this Ordinance is to prohibit the retail sale, retail gift, or retails distribution of novelty lighters due to their appeal to juveniles, causing a growing number of juvenile-set fires.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

WJG:pev:amt
03/06/08
Or.Dept:Fire
O-2008-58

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE SAN DIEGO CITY COUNCIL
AMENDING THE SAN DIEGO MUNICIPAL CODE BY
AMENDING CHAPTER 5, ARTICLE 4, BY ADDING
THERETO DIVISION 9, SECTIONS 54.0901, 54.0902, 54.0903,
54.0904, 54.0905, AND 54.0906 ALL RELATED TO
PROHIBITING THE RETAIL SALE, RETAIL GIFT, OR
RETAIL DISTRIBUTION OF NOVELTY LIGHTERS.

WHEREAS, novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs; and

WHEREAS, as a result of this attraction of novelty lighters to children, children have inadvertently started fires causing injury, death and destruction of property; and

WHEREAS, despite the Consumer Product Safety Commission's recall of thousands of novelty lighters since 1996 due to their danger to public safety and despite the promulgation of lighter safety standards, fires caused by children playing with novelty lighters continue to occur and at an increased rate; and

WHEREAS, juvenile firesetting has been identified as the fastest growing fire threat in the United States with more than 300 people killed, 30 percent being children, and almost \$1 billion in property destroyed; and

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the San Diego Burn Institute, Burn Centers, the USFA and the San Diego County Fire Chiefs Association; and

WHEREAS, various local governments across the nation have adopted ordinances prohibiting the retail sale, retail gift, and retail distribution of novelty lighters in their jurisdictions; and

WHEREAS, the continued retail sale, retail gift, and retail distribution of novelty lighters represents a serious threat to public safety within the City of San Diego; and

WHEREAS, the functions of novelty lighters can be achieved by alternative means without posing the danger to public health and safety that novelty lighters present; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 4 is hereby amended by adding Division 9, Sections 54.0901, 54.0902, 54.0903, 54.0904 54.0905, and 54.0906 to read as follows:

Article 4: Public Hazards and Public Nuisances

Division 9: Prohibition of Retail Sale, Retail Gift or Distribution of Novelty Lighters

§ 54.0901 Declaration of Purpose

The Council of the City of San Diego finds and declares that:

- (a) Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs.
- (b) As a result of this attraction of novelty lighters to children, children have inadvertently started fires causing injury, death and destruction of property.

- (c) Despite the Consumer Product Safety Commission's recall of thousands of novelty lighters since 1996 due to their danger to public safety and despite the promulgation of lighter safety standards, fires caused by children playing with novelty lighters continue to occur and at an increased rate.
- (d) Juvenile firesetting has been identified as the fastest growing fire threat in the United States with more than 300 people killed, 30 percent being children, and almost \$1 billion in property destroyed.
- (e) Many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the San Diego Burn Institute, Burn Centers, the USFA and the San Diego County Fire Chiefs Association.
- (f) Various local governments across the nation have adopted ordinances prohibiting the retail sale, retail gift, and retail distribution of novelty lighters in their jurisdictions.
- (g) The continued retail sale, retail gift, and retail distribution of novelty lighters represents a serious threat to public safety within the City of San Diego.
- (h) The functions of novelty lighters can be achieved by alternative means without posing the danger to public health and safety that novelty lighters present.

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§ 54.0902 **Definition**

For purposes of this Division, *Novelty lighter* means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children under ten years of age. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, that play musical notes, that have flashing lights, that offer other entertaining features, or have the physical appearance of other specific objects in form or function. A *novelty lighter* may operate on any fuel, including butane or liquid fuel.

§ 54.0903 **Prohibition**

The retail sale, offer of retail sale, retail gift, or distribution in connection with a retail sale of any *novelty lighter* within the territorial jurisdiction of the City of San Diego by any person is unlawful.

§ 54.0904 **Exceptions**

The term *novelty lighter* excludes:

- (a) any lighter manufactured prior to 1980; and
- (b) any lighter which is sold without fuel or a device necessary to produce combustion or a flame.

§ 54.0905 **Enforcement Authority**

The provisions of this chapter shall be enforced by the fire marshal, any police officer, any code compliance officer, and *enforcement official* or *Director* as

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defined in Municipal Code section 11.0210, and any other City official authorized to enforce any provision of the Municipal Code.

§ 54.0906 Enforcement Remedies

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The City may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202, and/or any administrative remedy provided in Chapter 1 of this Code.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By William J. Gersten
William J. Gersten
Deputy City Attorney

WJG:amt:pev
03/06/08
Or.Dept:Fire-Rescue
O-2008-58

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

NEW LANGUAGE: DOUBLE-UNDERSCORED

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE SAN DIEGO CITY COUNCIL
AMENDING THE SAN DIEGO MUNICIPAL CODE BY
AMENDING CHAPTER 5, ARTICLE 4, BY ADDING
THERETO DIVISION 9, SECTIONS 54.0901, 54.0902, 54.0903,
54.0904, 54.0905, AND 54.0906 ALL RELATED TO
PROHIBITING THE RETAIL SALE, RETAIL GIFT, OR
RETAIL DISTRIBUTION OF NOVELTY LIGHTERS.

Article 4: Public Hazards and Public Nuisances

Division 9: Prohibition of Retail Sale, Retail Gift or Distribution of Novelty Lighters

§ 54.0901 Declaration of Purpose

The Council of the City of San Diego finds and declares that:

- (a) Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs.
- (b) As a result of this attraction of novelty lighters to children, children have inadvertently started fires causing injury, death and destruction of property.
- (c) Despite the Consumer Product Safety Commission's recall of thousands of novelty lighters since 1996 due to their danger to public safety and despite the promulgation of lighter safety standards, fires caused by children playing with novelty lighters continue to occur and at an increased rate.

- (d) Juvenile firesetting has been identified as the fastest growing fire threat in the United States with more than 300 people killed, 30 percent being children, and almost \$1 billion in property destroyed.
- (e) Many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the San Diego Burn Institute, Burn Centers, the USFA and the San Diego County Fire Chiefs Association.
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§ 54.0902 Definition

For purposes of this Division, *Novelty lighter* means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children under ten years of age. This includes, but is not

limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, that play musical notes, that have flashing lights, that offer other entertaining features, or have the physical appearance of other specific objects in form or function. A novelty lighter may operate on any fuel, including butane or liquid fuel.

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The provisions of this chapter shall be enforced by the fire marshal, any police officer, any code compliance officer, and enforcement official or Director as defined in Municipal Code section 11.0210, and any other City official authorized to enforce any provision of the Municipal Code.

§ 54.0906 Enforcement Remedies

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The City may

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(O-2008-58)

also seek injunctive relief and civil penalties in the Superior Court pursuant to
Municipal Code section 12.0202, and/or any administrative remedy provided in
Chapter 1 of this Code.

WJG:amt:pev
03/06/08
Or.Dept:Fire-Rescue
O-2008-58